



# Office of the Independent Police Auditor

## NEWSLETTER

City of San José

MAY 2000

<http://www.ci.san-jose.ca.us/ipa/home.html>

VOLUME 9

### NEW ISSUES & RECOMMENDATIONS

In the 1999 Year End Report, the Independent Police Auditor (IPA) made three recommendations:

- To strengthen the complaint process to meet the public's expectations;
- To provide an opportunity to facilitate meaningful dialog between the complainant and the officer; and
- To provide officers with training that focuses on verbal communications.

The recommendations were presented and adopted by the mayor and city council on April 18, 2000 at a city council meeting.

#### STRENGTHENING THE COMPLAINT PROCESS TO MEET THE PUBLIC'S EXPECTATIONS

##### Personalizing IPA Communications with the Complainants

Currently, the IPA communicates with complainants whenever they initiate contact or through form letters. The IPA has seen the need to spend more time informing and updating complainants and making them feel a part of the citizen complaint process. In order to accomplish this, the IPA recommended the hiring of additional staff. The city council approved the hiring of an intake/investigator and an office specialist.

##### Subpoenas for Civilian Witness

A recurring problem that is encountered in the investigation of citizen complaints is the problem of how can an investigator compel a witness to divulge needed information. As a result, the IPA recommended that the Professional Standards & Conduct Unit (PSCU) and the IPA be granted subpoena powers which will give them the authority to compel a citizen witness to be interviewed or release and/or provide physical evidence such as medical records that may be an integral part of an investigation. The city council accepted the recommendation.

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## Follow-up Investigations

The IPA has been criticized for its lack of investigative power. While it is true that the primary investigative unit is the PSCU, the IPA nevertheless conducts follow-up investigations as part of the audit. In order to clarify this misconception, the IPA recommended the city council approve to amend the Municipal Code to define a citizen complaint audit and clarify that a follow-up investigation is an integral component of an audit.

## PROPOSED VOLUNTARY MEDIATION PROGRAM

Over the past several years the IPA and the Chief of Police have discussed the benefits of providing an alternative process for mitigating minor complaints against officers. The voluntary mediation program as recommended by the IPA and accepted by the city council, will serve as an alternative to the formal investigation process and will provide an opportunity to facilitate meaningful dialog between the complainant and the officer.

## IMPROVING POLICE COMMUNICATION SKILLS

In analyzing many complaints filed in 1999, the IPA

identified a pattern indicating that in a significant number of police to citizen contacts, it appeared that the officers did not communicate with the citizen effectively. This failure to communicate may have led to a physical

confrontation, the filing of a citizen complaint or a negative opinion of the police department. A review of the current training offered at the Police Academy and the ongoing police in-house training found that communication skills is an area that is incorporated into several courses but there is no training that specifically addresses day to day communications or proper etiquette when addressing the public. Therefore, the IPA recommended that the SJPD design a training course focused specifically on improving day to day verbal communications when dealing with the public. The recommendation was approved by the city council.



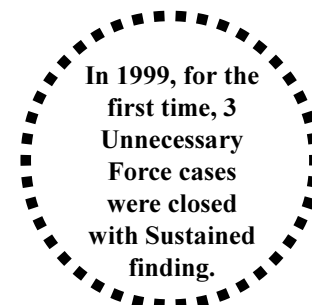
# 1999 YEAR END STATISTICS

Type of Formal Disciplines Imposed	1995	1996	1997	1998	1999	Total	%
Training and/or Counseling	33	21	19	20	11	104	27%
Documented Oral Counseling (D.O.C.)	27	24	15	23	15	104	27%
Letter of Reprimand (L.O.R.)	16	19	13	11	7	66	17%
10-Hour Suspension	8	4	4	4	1	21	5%
20-Hour Suspension	0	0	5	3	5	13	3%
40-Hour Suspension	0	1	2	2	4	9	2%
80-Hour Suspension	1	1	1	2	2	7	2%
100-Hour Suspension	0	0	0	1	0	1	0%
120-Hour Suspension	1	2	2	0	0	5	1%
160-Hour Suspension	3	1	3	1	2	10	3%
13 Month Suspension	0	1	0	0	0	1	0%
Demotions / Transfers	0	0	0	0	1	1	0%
Terminations	2	2	0	1	2	7	2%
Retired	2	3	3	3	2	13	3%
Resigned	8	4	6	5	0	23	6%
Settlement Agreement	0	0	0	1	2	3	1%
Total Formal Disciplines Imposed	101	83	73	77	54	388	100%
%	26%	21%	19%	20%	14%	100%	

*Note that this tabulation does not include non-sworn or reserve officers*

## DISCIPLINE IMPOSED

The table to the left is a five year view of the formal discipline imposed. The discipline imposed most frequently are Training and/or Counseling, Documented Oral Counseling, Suspension and Letter of Reprimand. In 1999, there were two terminations.



## 1999 YEAR END STATISTICS

### CASES RECEIVED

In 1999, there were a total of 819 public contacts received: 349 were formally investigated as a **complaint**, 387 were handled as an **Inquiry**, 34 were closed as **No Boland** and 49 did not involve a San José police officer.

An **Inquiry** is a contact that is immediately resolved to the complainant's satisfaction without the need for an investigation. Although an inquiry does not go through the full investigation process; nevertheless, it requires sufficient amount of attention.

In addition to the 387 recorded inquiries, there were 49 additional contacts that did not involve a San Jose police officer, but nevertheless required some type of investigation in order to determine their jurisdiction. These cases were referred to the appropriate agencies.

Type of Complaints	IPA Intake	PSCU Intake	Total Cases
Formal: Citizen-Initiated (CI)	77	122	199
Formal: Department-Initiated (DI)	0	30	30
Informal (IN)	16	45	61
Policy (PO)	6	12	18
Procedural (PR)	12	29	41
<b>Total Complaints in 1999</b>	<b>111</b>	<b>238</b>	<b>349</b>

Inquiry (IQ)	87	300	387
No Boland (NB)	15	19	34
Did not involve SJPD officer	16	33	49
<b>Total Public Contacts in 1999</b>	<b>102</b>	<b>319</b>	<b>470</b>

A complaint is closed as a **No Boland** when the complaint is withdrawn or when the complainant fails to sign the Boland Admonishment, a state required form.

### FIVE YEAR ANALYSIS OF CLASSIFIED COMPLAINTS

The illustration below shows a comparative five year analysis of classified complaints by council district. The effects of more scheduled activities in certain districts appear to generate more complaints. This is apparent when comparing the complaints generated in districts 3, 5, 6 and 7 each year.

Council Districts	Jan. - Dec. 1995	Jan. - Dec. 1996	Jan. - Dec. 1997	Jan. - Dec. 1998	Jan. - Dec. 1999
1 LEZOTTE	31	28	27	13	27
2 POWERS	33	50	24	21	49
3 CHAVEZ	143	208	156	131	240
4 MATTHEWS	24	37	15	16	44
5 DIAZ	42	59	46	29	79
6 FISCALINI	39	66	42	26	49
7 SHIRAKAWA, JR.	40	35	45	39	55
8 WOODY	37	41	17	23	41
9 DIQUISTO	27	28	30	19	26
10 DANDO	27	39	20	15	42
Unknown/Outside City Limits	13	16	24	32	65
<b>Total Cases Received</b>	<b>456</b>	<b>607</b>	<b>446</b>	<b>364</b>	<b>717 *</b>

\* Note that the total number of cases received in 1999 include 334 Inquiries; however, an additional 102 Inquiries are not accounted for in the Council District distribution due to the conversion into the new database system recommended and implemented March 1999. The totals for 1995, 1996, 1997 and 1998 do not include Inquiries.

# 1999 YEAR END STATISTICS

## SUBJECT OFFICERS COMPLAINTS FROM COMPLAINANTS BY ETHNICITY

The illustration below presents a view of the subject officers receiving complaints from complainants by ethnicity. This chart cross references the ethnicity of the complainant and of the subject officer. However, keep in mind that there are factors that affect the reliability of the data collected. For example, not all complainants complete the Voluntary Questionnaire. In 1999, 25% of all complainants declined to answer the ethnicity question in the questionnaire.

The illustration also shows that European American officers received complaints from almost every ethnic group. However, keep in mind that European American officers make up the largest group in the SJPd (62%) and they received the least percentage number of complaints (58%). Both African American officers and Asian officers received slightly more complaints than the percentage accounted for within the department. Most of these complaints were from Hispanic/Latino and European American complainants.

Complainants	Subject Officers Receiving Complaints						% of Complainants	% of San Jose Population
	African American	Asian American	European American	Filipino American	Hispanic / Latino	Native American		
African American	3	5	22	0	7	0	11%	4.5%
Asian American	0	2	5	0	1	0	2%	21%
European American	6	6	39	0	9	0	19%	43%
Filipino American	0	0	0	0	2	0	1%	0%
Hispanic / Latino	4	15	57	2	34	0	35%	31%
Native American	0	0	5	0	1	0	2%	0%
Vietnamese	3	4	8	0	0	0	5%	.5%
Other	0	1	2	0	0	1	1%	0%
Decline	3	6	50	0	20	1	25%	100%
% of Officers receiving complaints	6%	12%	58%	1%	23%	1%	100%	
% of Officers in San Jose Police Department	5%	7%	62%	2%	23%	1%	100%	

## DISAGREED CASES BY THE IPA

In 1999, the IPA disagreed with the finding of the investigation in 6 or 5% of the 118 Formal cases even after further action was requested from the PSCU. Following are examples of cases where the IPA disagreed with the resolution.

**Case #1**– Complainant alleged he was kicked in the chest and hit in the head, possibly with the butt end of a gun. The findings by the SJPd Exonerated the officer. The IPA disagreed.

**Case #2** – Complainant alleged he was unlawfully arrested and discriminated against during an investigation into a domestic violence matter. The findings by the SJPd Exonerated one of the allegations and Unfounded four others. The IPA disagreed.

**Case #3** – Complainant alleged he was pushed and forced into his vehicle by an officer, causing an injury to his knee and back. The finding by the SJPd Unfounded the allegation because the Complainant was uncooperative and refused to release medical information relevant to the case. The IPA disagreed with the Unfounded finding.

## COMMUNITY OUTREACH

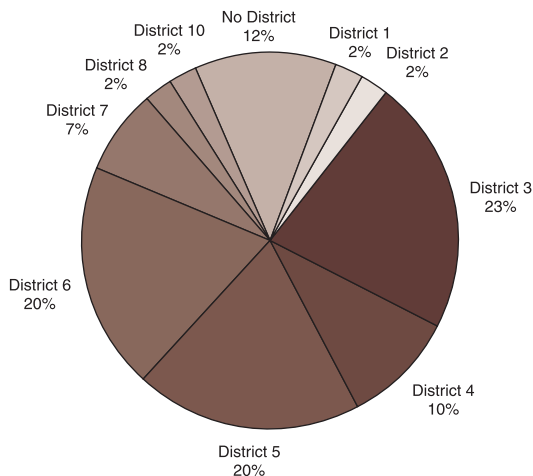
### IPA TO REACH OUT TO THE YOUTH

The IPA's goal for the year 2000 is to work closely with the youth in informing them of the citizen complaint process. The IPA plans to work with local schools, city sponsored programs and the media to reach out to the youth.

### COMMUNITY PRESENTATIONS

In 1999, the IPA set a goal to increase community awareness. As part of the community outreach plan, the IPA did over 30 community presentations in a six month period. Districts 3, 5 and 6 requested the most presentations.

Members of the San José Police Department are invited by the IPA to take part in the presentations. The benefit of having the beat officers present is that it provides the community members with an opportunity to meet the officers, share concerns and talk about problems in their neighborhood. The IPA will continue working in increasing community awareness about the citizen complaint process.



### MAKING A DIFFERENCE IN THE NEIGHBORHOODS

Last year the IPA was busy making presentations and attending community events. The IPA sees this as an opportunity to learn more about the needs and concerns of the different neighborhoods and ways the IPA can better



*The Police Auditor and Chief of Police attend a community meeting at the Alma Community Center.*

serve the community. Here is an example of how the IPA successfully made a difference in a neighborhood by listening to the residents' concerns and working with the SJPD to resolve the problem.

In May of 1999, after doing a presentation at the Alma Community Center, the IPA received a letter from an anonymous resident detailing a drug and prostitution problem at a specific house in the neighborhood. The resident did not feel comfortable going to the police or anyone else for fear of retaliation. The IPA forwarded the resident's information to the appropriate police unit, maintained contact with the commander and staff and requested that the matter be investigated.

The SJPD opened an investigation and with surveillance and other evidence, officers were able to execute a search warrant. Within weeks, two suspects were arrested and drugs and cash were seized.



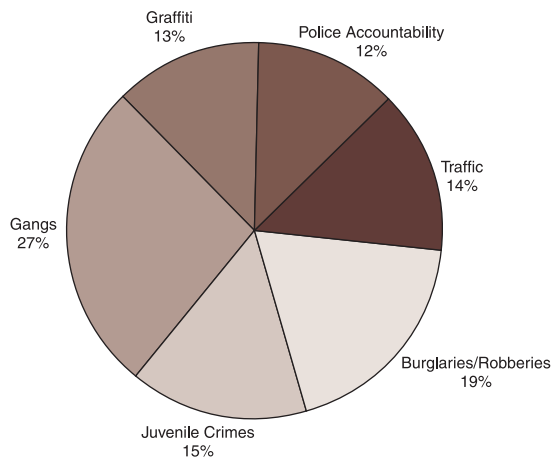
## COMMUNITY OUTREACH

Through collaboration between the SJPD and the residents, the quality of life in the neighborhood significantly improved.

### COMMUNITY SURVEYS

The IPA conducts voluntary surveys at community presentations. These surveys assist the IPA in identifying the neighborhoods where the IPA needs to increase community outreach and each neighborhood's issues and concerns.

In 1999, 235 surveys were collected and analyzed. Because a great percentage of the presentations were done in districts 3, 5 and 6; the majority of the surveys reflect the concerns pertaining to these districts. In addition, some surveys were not answered completely; therefore, the numbers do not equal a sum total.



The IPA asked residents to identify their major concerns in their neighborhoods. Problems with gangs was listed as the number one concern (27%) followed by burglaries/robberies (19%) and juvenile crimes (15%)

### WEBSITE

In 1998, the IPA created a website on the City of San José homepage where the public can obtain information about the IPA, the citizen complaint process and /or file a citizen complaint via electronic mail (e-mail).

The website has proven successful in making information available to anyone who has access to the internet. The IPA has received citizen complaints and inquiries not just from San José residents, but also from other cities and countries.

The IPA year end reports, newsletters, and general information are available at <http://www.ci.san-jose.ca.us/ipa/home.html>

### COMMUNITY FORUM

On December 13, 1999, the IPA held a town hall and panel discussion meeting at the Mexican Heritage Plaza to discuss police misconduct issues. The goal of the meeting was to provide the residents with an opportunity to voice their concerns and to hear from different agencies working in the field of Civil Rights violations, police accountability and police misconduct. The following professionals took part in the panel discussion: Honorable Frank Fiscalini, Vice Mayor; William Lansdowne, San Jose Police Chief; Teresa Guerrero-Daley, Police Auditor; Karyn Sinunu, Assistant District Attorney; John Tennant, General Counsel, Police Officers' Association; Carol Russo, United States Department of Justice, Community Relations Services, and Merylee Shelton, Human Rights Commission. The panel discussion was broadcasted live on KGO Newstalk AM 810 and moderated by radio talk show host Gene Burns.



IPA Community Forum Panel (left to right) Gene Burns, Carol Russo, John Tennant, Teresa Guerrero-Daley, Vice Mayor Frank Fiscalini, Chief Bill Lansdowne, Merylee Shelton and Karyn Sinunu.

## COMMUNITY OUTREACH

### INDEPENDENT POLICE AUDITOR ADVISORY COMMITTEE

In 1999, the IPA formed an advisory committee called the Independent Police Auditor Advisory Committee (IPAAC); comprised of 16 culturally diverse community leaders.

The purpose of the IPAAC is to give input on police related concerns and issues brought to its attention by the community and to provide feedback on past IPA recommendations. The first IPAAC meeting was held in March at the IPA office.

The IPAAC members serve at the pleasure of the Auditor and are required to attend a minimum of two meetings a year.

Because this was the first year of the IPAAC, three meetings were held to develop the framework for the committee, its goals and objectives. Members of the IPAAC requested to meet with the IPA in July and October to discuss their concerns with the officer-involved shootings and the relocation of the IPA.

### IPA RELOCATES

The IPA will soon be relocating to 2 North Second Street, Suite #93, basement level, between E. Santa Clara and E. St. John Streets. The new office is located next door to the old office. The new location will provide the IPA with more office space, easy access and high visibility with sufficient privacy to instill confidence in the public about the citizen complaint process.



*2 North Second Street, basement level  
(between E. Santa Clara St. and E. St. John Street)*

Light rail and bus stations are located within one block of the site.

### REFERRAL SITES

In 1999, the IPA established 17 referral sites where residents may obtain information on how to file a citizen complaint. It is the opinion of the IPA that a person will feel more comfortable filing a complaint, if he/she first makes contact at a local community organization where he/she can talk with someone who refers him/her to the IPA. Preferred sites are community centers or other locations frequently visited by the public. If your organization is interested in serving as a referral site, contact the office. Below is the list of the existing referral sites.

#### **City of San Jose**

**Asian Law Alliance** 184 East Jackson St.

**Catholic Charities -YES** 645 Wool Creek Dr.

**Catholic Charities - YES** 817 South 1<sup>st</sup> St.

**Gardner Community Center** 520 W. Virginia St.

**Japanese American Community Center** 588 N. 4<sup>th</sup> St.

**Mexican Consulate** 540 N. 1<sup>st</sup> St.

**South Bay Islamic Association** 325 N. 3<sup>rd</sup> St.

**The Salvation Army** 405 N. 4<sup>th</sup> St.

**City Team Ministries** 1297 N. 13<sup>th</sup> St.

**City Team Ministries** 2302 Zanker Rd.

**East San Jose Community Law Center** 1765 Alum Rock Ave.

**MACSA** 130 N. Jackson Ave.

**Billy DeFrank Community Center** 175 Stockton Ave.

**Korean American Community Services** 1800 Fruitdale Ave.

**Sherman Oaks Community Center** 1800 A Fruitdale Ave.

**Alma Community Center** 136 W. Alma Ave.

#### **City of Santa Clara**

**Council on American Islamic Relations**

3000 Scott Blvd., #104



Office of the Independent Police Auditor  
City of San José  
4 N. Second Street, Suite 650  
San Jose, CA 95113

## CITIZEN COMPLAINT FORM

(To file a citizen complaint, please fill out this form and mail it to the IPA office.)

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Middle Initial: \_\_\_\_\_ Anonymous ☐

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone # ( ) \_\_\_\_\_ Work Phone # ( ) \_\_\_\_\_

Date & Time of Incident: \_\_\_\_\_ Location of Incident: \_\_\_\_\_

The following occurred: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If necessary, you will be contacted for clarification of your complaint. This form will be forwarded to the Professional Standards & Conduct Unit for investigation.

IPA STAFF: Teresa Guerrero-Daley, Police Auditor \* Gil Candelaria, Assistant Auditor \* Leanne Wang, Complaint Analyst \* Vilcia Reyes, Public Relations

We welcome your comments regarding this newsletter!



Office of the Independent Police Auditor  
City of San José  
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San Jose, CA 95113

**To file a complaint against  
a SJPd officer, contact:**

***The Office of the  
Independent Police Auditor***

4 N. Second Street, Suite 650

San Jose, CA 95113

Tel (408) 977-0652

Fax (408) 977-1053

Email: Ind\_Pol\_Aud@ci.sj.ca.us

or visit our website at:

<http://www.ci.san-jose.ca.us/ipa/home.html>

or

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Conduct Unit**

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